

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION**

AMSOUTH BANK

PLAINTIFF

VS.

CIVIL ACTION NO: 3:06-CV-00416-W-A

**FRAZIER DEVELOPMENT, LLC;
C.E. FRAZIER, JR.; H. CLAIBORNE FRAZIER;
and AUSTIN W. FRAZIER**

DEFENDANTS

ANSWER

The Defendants, Frazier Development, LLC; C.E. Frazier, Jr.; H. Claiborne Frazier; and Austin W. Frazier (“Defendants”), respond to AmSouth Bank’s (“AmSouth”) Complaint as follows:

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against Defendants upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

AmSouth’s claims are subject to a mandatory arbitration provision contained in the contract upon which AmSouth basis its claims. The Court should issue an order requiring AmSouth to arbitrate its claims against Defendants and either dismiss this action or stay the action pending resolution of the arbitration proceeding.

THIRD AFFIRMATIVE DEFENSE

Venue of this action is not proper in the Jackson Division. This action relates to property located in Vicksburg, Mississippi, which is located in the Western Division of the Southern District.

FOURTH AFFIRMATIVE DEFENSE

Defendants respond to the Complaint, paragraph by paragraph, as follows:

1. Admitted.
2. Frazier Development's principal place of business is located at 500 East Capital Street, Jackson, Mississippi. Otherwise, admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. It is admitted that diversity jurisdiction exists. However, this dispute is subject to a mandatory arbitration agreement.
8. Denied. This action was filed in the Jackson Division rather than the Southern Division, which the Complaint identifies as the proper venue. In any event, the correct venue appears to be the Western Division of the Southern District, since the dispute relates to property that is located in Warren County, Mississippi.
9. Admitted.
10. Admitted.
11. Admitted.
12. Admitted.
13. Admitted.
14. Admitted.
15. Denied.
16. Denied.

Defendants deny the final unnumbered paragraph of the Complaint, deny that AmSouth is entitled to the relief that it seeks in this action and demands that this action be dismissed or stayed pending the arbitration of this dispute pursuant to the parties' arbitration agreement.

This the 27th day of September, 2006.

Respectfully submitted,
FRAZIER DEVELOPMENT, LLC;
C.E. FRAZIER, JR.; H. CLAIBORNE
FRAZIER; and AUSTIN W. FRAZIER

By Their Attorney:

s/ Philip W. Thomas
PHILIP W. THOMAS
MS Bar No. 9667

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CERTIFICATE OF SERVICE

I certify that on September 27, 2006 I electronically filed this Answer using the CM/ECF system which will send notification of such filing to the following:

Jeffrey R. Barber
Watkins Ludlam Winter & Stennis, P.A.
Post Office Box 427
Jackson, Mississippi 39205-0427

This the 27th day of September, 2006.

s/ Philip W. Thomas
PHILIP W. THOMAS